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CHIEF CLERK'S OFFICE

**Laura Braxton**

vs.

06-0023

**Peoples Gas Light and Coke Company**

**Complaint as to billing/charges in  
Chicago, Illinois**

**COMPLAINANT'S REPLY BRIEF IN RESPONSE TO**  
**RESPONDENT'S RESPONSIVE BRIEF**

This Brief will address the points made in Respondent's Responsive Brief, filed on May 11, 2007. Complainant, Laura Braxton, filed her Initial Brief in this matter on February 21, 2007, and thereafter, on March 7, 2007, filed her Reply Brief.

Complainant operates a homeless shelter on Chicago's South Side, called A Little Bit of Heaven ("LBOH"). As this case developed after the filing of the Complaint, it became apparent that Respondent, Peoples Gas Light and Coke Company ("Peoples"), had abused its right to render estimated bills and flaunted the estimated billing restrictions contained in the Public Utilities Act ("Act"), the rules of the Illinois Commerce Commission ("Commission"), and Peoples' own tariffs. These estimated billing rights and restrictions are not to be taken lightly, as they carry the force of statute, administrative regulation, and official and binding utility procedures. Peoples would have the Commission ignore such restrictions, attempting to have the Commission focus instead on the amounts billed to the customer. Peoples' determination to divert attention away from its violations of the estimated billing rules and shift it to the amounts billed but unpaid is so strong that in its Responsive Brief in the companion case to this one, ICC Docket 06-0603, it resorted to a flagrant violation of the basic rules of evidence and advocacy by

referencing and including a copy of what is purported to be a recent utility bill rendered by Peoples to LBOH. Said bill is not a part of the record in the case and counsel for Peoples' attempt to cause the Commission to consider it is nothing short of outrageous. The Commission should not countenance Peoples' attempts to deflect the focus from where it properly belongs – its blatant, serious violations of the estimated billing rules and its counsel's violation of basic rules of evidence and advocacy through highly and plainly improper references to irrelevant and inflammatory fact-type information that is not in evidence.

Peoples cites the two-year limitation in Section 9-252 of the Act in support of its attack on Complainant's exposing estimating billing violations extending back in time to 1999. Section 9-252 (220 ILCS 5/9-252) prohibits complaints for recovery of damages to be filed more than two years after the date the service was furnished. Complainant in this case is not seeking damages for a time period beyond the two-year limit; rather, Complainant merely pointed out that Peoples' illegal bill estimating practices extended back further in time than just the period covered by the billing months in question. Furthermore, Complainant's citation to the paltry number of actual meter reads going back to 1999 (17 actual reads over 80 months) (Complainant's Initial Brief, page 5) arose from the introduction into evidence of such records by Peoples, not by Complainants.

Peoples quotes a statement of one of its witnesses, Betty Jean Daniels, that "something should be done" after six consecutive estimated bills (stretching over 12 months). It isn't clear what point Peoples is attempting to make in citing this testimony, but it only serves to reinforce Peoples' institutional ignorance or disregard of the basic legal requirement that a regulated utility read a customer's meter at least every other month. Nowhere in Peoples' terms and conditions of service, which are part of Peoples' tariffs, the relevant pages of which are attached to Peoples'

Responsive Brief as Appendix B, does it contemplate that consecutive estimated billings should or may occur.

Attached to Peoples' Responsive Brief is a copy of a portion of the "First Supplemental Order, General Order 172 Second Revised", dated May 23, 1979. Peoples contends its compliance with such order demonstrates that its estimated billing procedures comport with the Commission's rules and regulations. The order to which Peoples refers is nearly 28 years old, and is not currently applicable. As Complainant described at pages 6 – 7 in her Initial Brief, section 8-303 of the Act (220 ILCS 5/8-303) and section 280.80 of the Administrative Code (83 Ill. Adm. Code Sec 280.80), which replaced General Order 172, together govern the legal requirements a public utility must follow in connection with estimated billings. The fact that a 28-year old General Order, which is no longer applicable, included a notation that Peoples' estimated billing procedures and estimated bill form meet the intent of said order is hardly probative of whether Peoples' estimated billing practices and bills are in compliance with the law today. We do not even know what Peoples' procedures were, or what Peoples' estimated bill forms looked like, 28 years ago. Peoples attached as part of it Appendix B to its Responsive Brief a copy of a representative estimated customer bill, which is part of Peoples' tariffs, with a hand-written mark next to a box of information on the bill. Such mark apparently is intended to help demonstrate Peoples' compliance with the estimated billing requirements, including the requirement that the word "estimate" appear prominently on the bill's face (See Complainant's Initial Brief at page 6). Unfortunately, the copy of the representative bill is of such poor quality that what is included in the box is not legible. As Appendix A to this Brief shows, however, which is a copy of an actual bill rendered to LBOH during the time period in question and admitted into the combined record in Docket 06-0023 and 06-0603 (Respondent's Ex. 3, ICC 06-

0603), the word “estimate” appears only once and in extremely small font. This falls far short of appearing “prominently.”

Peoples contends it made “reasonable attempts to read the meter in the disputed billing period and was unable to do so,” citing its Exhibit B in support. Exhibit B appears to be a series of eight computer screen shots showing some information pertaining to the LBOH account. Several fragmentary hand-written notations appear on the first two pages of Exhibit B. The author of the notes, and the basis for the notations, is unknown. Peoples contends these skimpy notations provide proof that its representatives made sufficient attempts to read the LBOH meter to constitute compliance with its legal obligations. As Complainant pointed out at page 4 of her Initial Brief, however, and as the record shows, utility personnel are always allowed to enter the LBOH facility and to read the meter, and that several LBOH personnel are authorized to permit access to the building. (06-0023 Tr. 138). Even Peoples’ witness Zenetra Weatherall demonstrated that Peoples’ attempts to gain an actual meter read were paltry and insufficient legally to meet a utility’s duty to obtain actual meter reads. Ms. Weatherall testified that a meter reader only goes to a customer premises once to read the meter, and if the meter reader is not able to gain access that one time, the meter reader does not make a subsequent attempt to get an actual read. (06-0023 Tr. 179). The steps and effort Peoples is legally required to make in order to get actual meter readings is found in the language of the statute and the regulations promulgated under the statute:

The statute provides:

*If a meter reader is unable to gain access to the meter for the purpose of making an actual reading, the public utility shall take other appropriate and reasonable measures to read the meter.*

(220 ILCS 5/803).

The regulations make it permissible for a utility to render an estimated bill if, among other things:

*The utility has taken appropriate and reasonable measures to read the meter, including but not limited to, making an appointment with the customer, scheduling readings for times other than normal business hours, and/or providing postal cards on which the customer may record the reading and mail it to the utility.*

(83 Ill. Adm. Code Sec. 280.80(b)(1)).

The record in this case is sorely lacking in any evidence that Peoples even came close to meeting its legal requirements in accordance with the above-quoted statutory and regulatory provisions.

Peoples make much of the fact that its billings to LBOH from April through September 2006 were based on actual reads. This is only because, after Peoples disconnected gas service to LBOH in May 2006, Peoples installed an "ERT" device on the LBOH meter so that an actual reading could be obtained remotely. (See Complainant's Initial Brief at page 7).

Peoples belittles Complainant's prayer for relief in which Complainant requests that the Commission order Peoples to refund \$13,316 to LBOH, which amount represents the amount LBOH had to pay to Peoples to have its service restored in July 2005. Peoples alleges that, "In effect, Complainant does not want to pay for gas service provided to the Shelter." (Respondent's Responsive Brief, page 4). This accusation is insulting and an affront to the integrity of both Laura Braxton and Sheila Braxton, who together run the day-to-day operations of LBOH. As Sheila Braxton stated at one of the several hearings held in this matter, on September 1, 2006, "I'm not looking for fringe benefits from Peoples Energy, but I am looking for accuracy and fairness." (06-0023 Tr. 94).

It should be noted that Respondent's Responsive Brief has a defective Certificate of Service, in that it references another document and has an incorrect date.


Complainant restates her request that the Commission make Peoples answer and account for its egregious billing practices and flaunting of the statutory requirements and Commission rules pertaining to meter reads and estimated billings, both by 1) ordering Peoples to refund the \$13,316 paid by Complainant to restore service in July 2005, and by 2) undertaking an investigation into Peoples' estimated billing practices. As for the latter item of relief, Complainant suggests that in its current proceeding, Docket 06-0703, whereby the Commission is revising 83 Ill. Adm. Code 280, that the Administrative Law Judge be directed explicitly to include utility estimated billing practices and their compliance with existing requirements as part of such review and revisions.

WHEREFORE, Complainant requests that the Commission order that Peoples refund the \$13,316 paid by Complainant to have service restored on July 28, 2005.

Dated: May 18, 2007

Respectfully submitted,

LAURA BRAXTON

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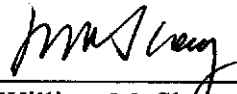
**CERTIFICATE OF SERVICE**

I hereby certify that on May 18, 2007, I served the foregoing Complainant's Reply Brief in Response to Respondent's Responsive Brief, by causing a copy to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties indicated below:

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